

AMENDED IN SENATE APRIL 13, 2009

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 694

Introduced by Senator Correa

February 27, 2009

An act to add Chapter 1.9 (commencing with Section 21990) to Part 3 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 694, as amended, Correa. Public contracts: public works: competitive bidding.

Existing law sets forth the requirements for the solicitation and evaluation of bids and the awarding of contracts by public entities for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement.

This bill would set forth requirements for the solicitation and evaluation of bids, and the awarding of contracts for the erection, construction, alteration, *repair* or addition to any work of improvement, estimated to cost more than \$25,000, that is not otherwise required to be performed under a competitively bid contract, or is exempt from competitive bidding requirements, and that is owned by, intended to be conveyed to, or financed by taxes, assessments, or bonds of, a public entity other than a state entity, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 1.9 (commencing with Section 21990)
2 is added to Part 3 of Division 2 of the Public Contract Code, to
3 read:

4
5 CHAPTER 1.9. OTHER PUBLIC WORKS OF IMPROVEMENT
6

7 21990. This chapter shall apply to the erection, construction,
8 alteration, repair, or addition to any work of improvement estimated
9 to cost more than twenty-five thousand dollars (\$25,000) that is
10 not otherwise required to be performed under a competitively bid
11 contract, or is otherwise specifically exempt from competitive
12 bidding requirements, by state law, or by the charter or an
13 ordinance of a city, city and county, or county, when the work of
14 improvement meets any of the following criteria:

15 (a) The work of improvement is owned by a public entity. For
16 the purposes of this chapter, public entity shall have the same
17 meaning as defined in Section 1100, but shall exclude a state entity.

18 (b) The work of improvement is intended to be conveyed to a
19 public entity within five years of completion of the work of
20 improvement.

21 (c) The work of improvement is financed in substantial part by
22 money derived from taxes or assessments of, or bonds sold by or
23 guaranteed by, any public entity.

24 21991. A notice inviting bids for the project shall be published
25 at least once a week for two consecutive weeks or more, with the
26 last publication no less than 10 calendar days before the date of
27 opening the bids.

28 (a) The notice shall be published in a newspaper of general
29 circulation, printed and published in the county where the project
30 is located, or if the project is located in more than one county, in
31 a newspaper in the county where the major portion of the work is
32 to be done.

1 (b) The notice shall distinctly describe the project, state the date,
2 time, and place for the receipt and opening of sealed bids, and note
3 where plans and specifications for the project can be obtained.

4 21992. (a) No bids shall be accepted after the time stated in
5 the public notice for the receipt and opening of bids, and any bid
6 tendered after that time shall be returned, unopened, to the person
7 who tendered it. On the day stated in the public notice for the
8 receipt and opening of bids, all bids shall be publicly opened and
9 announced.

10 (b) All bids shall be made available during normal business
11 hours for inspection and copying by any person at the place where
12 bids were opened. Bids shall be available for inspection and
13 copying for 90 days after the opening of bids.

14 21993. A public entity may reject all bids if all of the following
15 apply:

16 (a) Cogent and compelling reasons to reject all bids exist.

17 (b) Rejecting all bids is in the best interest of the public entity
18 involved.

19 (c) Rejecting all bids will not result in treating any of the bidders
20 in an unfair or unequal manner.

21 21994. The successful bidder shall provide appropriate bonds
22 to the public entity to insure the faithful performance of the contract
23 and the payment of subcontractors and suppliers.

24 21995. (a) The contract shall be awarded to the responsible
25 bidder who submits the lowest responsive bid.

26 (b) All contracts under this chapter shall comply with Chapter
27 1 (commencing with Section 1720) of Part 7 of Division 2 of the
28 Labor Code.

29 SEC. 2. The Legislature hereby finds and declares all of the
30 following:

31 (a) That open, competitive bidding has proven to provide
32 construction services to the people of California at lower cost and
33 has protected taxpayers from the evils of favoritism, fraud, and
34 corruption in the awarding of public contracts. This act is not
35 intended to interfere with the operation of any statutes, charter
36 provisions, or ordinances that prescribe competitive bidding or
37 specifically exempt contracts from competitive bidding by
38 prescribing some other mode of procurement.

1 ~~(b) That public works construction that is not otherwise~~
2 ~~prescribed by statute, charter provision, or ordinance, is a matter~~
3 ~~of statewide concern.~~

4 *(b) That the awarding of contracts for the erection, construction,*
5 *alteration, repair, or addition to any work of improvement that is*
6 *not otherwise required to be performed under a competitively bid*
7 *contract, or is exempt from competitive bidding requirements, and*
8 *that is owned by, intended to be conveyed to, or financed by taxes,*
9 *assessments, or bonds of, a public entity other than a state entity,*
10 *as described in Chapter 1.9 (commencing with Section 21990) of*
11 *Part 3 of Division 2 of the Public Contract Code, as added by*
12 *Section 1 of this act, is a matter of statewide concern, and not a*
13 *municipal affair; as that term is used in Section 5 of Article XI of*
14 *the California Constitution.*

15 SEC. 3. If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.